

**Minutes**  
**Bar Harbor Town Council**  
**August 4, 2009**

- I. CALL TO ORDER** – 7:02 p.m. – In attendance were Councilors: Sandy McFarland, Ruth Eveland, Paul Paradis, Peter St. Germain, Jane Disney, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.
- A. Excused Absence(s)** – *(There were none)*
- II. APPROVAL OF MINUTES**
- A. July 7, 2009** – Mr. Paradis, with second by Mr. Veilleux, moved to approve the minutes of the July 7, 2009 regular meeting as presented. Motion passed 7-0.
- III. ADOPTION OF AGENDA** – Mr. Paradis, with second by Mr. Jordan, moved to adopt the agenda as presented with the exception of removing item VI (Q). Motion passed 7-0.
- IV. FINANCIAL STATEMENTS:** *Draft year-end statements for Fiscal Year 2009.* – Mr. Paradis, with second by Mr. Veilleux, moved to accept and file the draft year-end statements for Fiscal Year 2009 as presented in the Finance Director's memo dated July 24, 2009. Motion passed 7-0.
- V. PUBLIC HEARINGS:**
- A. Special Amusement Permit: Finback Alehouse, 30 Cottage Street** – *Request of Matt Haskell for a Special Amusement Permit Class 3ad, three or more musicians with mechanical amplification and dancing. (New, formerly Bubba's)* – There being no comments, Mr. Paradis, with second by Mr. Jordan, moved to approve the Special Amusement Permit for Finback Alehouse as requested. Motion passed 7-0.
- B. Otter Creek Drive Discontinuance** - *Public comment and possible Council action on a request for discontinuance of approximately 1500 feet of unused Otter Creek Drive right of way lying on the easterly side of State Route Three (3) between Otter Cliffs Road and Gray Road.* – Following public comments; Mr. Paradis, with second by Ms. Eveland, moved to adopt the Order of Discontinuance, acting as the Municipal Officers, for the area north of Canon Brook on Otter Creek Drive as presented. Motion passed 7-0.
- Further, Mr. Paradis, with second by Ms. Eveland, moved to approve the Order of Discontinuance, acting as the Legislative body, for the area north of Canon Brook on Otter Creek Drive as presented. Motion passed 7-0.

**Order of Discontinuance  
For a Portion of Otter Creek Drive  
Northerly of Canon Brook**

To: Inhabitants Of The Town Of Bar Harbor And Other Interested Parties  
cc: Planning Director  
From: Bar Harbor Town Council  
Date: August 4, 2009

Re: **Discontinuance of a Portion of Otter Creek Drive**

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Following a public hearing on August 4, 2009, the Municipal Officers of the Town of Bar Harbor, County of Hancock, State of Maine, pursuant to 23 M.R.S.A. § 3026, hereby ORDER the discontinuance, as a town way, as a public easement and as a utility easement, part of a way known as Otter Creek Drive, said part being more fully described as follows:

A portion of that section of the way as shown on a Maine Department of Transportation Right of Way Map entitled, State Aid Highway No. 2, Bar Harbor, Hancock County, Federal Aid Project No. S-0257(3), dated July 1968, on file in the Office of the Maine Department of Transportation, at its office in Augusta, File No. 5-100, sheet 2 and being more fully described as follows:

That section of the former location of Route 3 that lies southerly of the following described line and is bordered on the south by the center of Canon Brook.

Beginning at a point in the present southeasterly line of Route 3, said point being fifty (50) feet southeasterly from and as measured along a line at right angles to the base line at about Station 52+91;

Thence N 43°-26'-30" E, along the said present southeasterly line of Route 3, about two hundred fifty-seven (257) feet to a point fifty (50) feet southeasterly from and as measured along a line at right angles to the base line at about Station 55+48.

Subject to any and all highway slopes and drainage structures of the State of Maine Department of Transportation that may be located upon or within the above described section.

The Municipality of Bar Harbor will not retain a public easement or utility easement over the herein described discontinued area, as provided in Title 23 M.R.S.A. Section 3026.

Notice of said hearing was given to all potential abutters of the way proposed for discontinuance and to the Bar Harbor Planning Office through the Planning Department Director. The abutters to whom notice was given include:

David and Anne Zaslau, 257 Otter Creek Drive, Bar Harbor, ME 04609

Based on the testimony presented at the hearing, the Municipal Officers find:

- (1) that the abutters have frontage on public ways other than the part of the way proposed to be discontinued, and have other, suitable means of access to their properties, and
- (2) that, as evidenced by an affidavit of damages returned by David and Anne Zaslau, the fair market value of the property of the abutters will not be adversely affected by the discontinuance, and
- (3) that, as evidenced by an affidavit of Bar Harbor Highway Division foreman Albert Merchant, the way being discontinued has not been used or kept passable for motor vehicles

at public expense since 1976, being a period of thirty or more consecutive years, and has therefore been previously abandoned without reservation of a public easement.

Based on the foregoing findings, the Municipal Officers of the Town of Bar Harbor conclude that no damages shall be paid to any abutter.

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Mr. Paradis, with second by Ms. Eveland, moved to adopt the Determination of Presumed Abandonment for the area south of Canon Brook on Otter Creek Drive as presented. Motion passed 7-0.

**Determination of Presumed Abandonment  
For a Portion of Otter Creek Drive  
Southerly of Canon Brook**

To: Inhabitants Of The Town Of Bar Harbor And Other Interested Parties  
cc: Planning Director  
From: Bar Harbor Town Council  
Date: August 4, 2009

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Following a public hearing on August 4, 2009 regarding discontinuance of fifteen hundred (1500) feet of unused Otter Creek Drive right of way lying on the easterly side of State Route 3 between Otter Cliffs Road and Gray Road, the Municipal Officers of the Town of Bar Harbor, County of Hancock, State of Maine, pursuant to 23 M.R.S.A. § 3028, hereby determine the presumed abandonment, as a town way, of part of a way known as Otter Creek Drive, said part being more fully described as follows:

That section of the highway as shown on a Maine Department of Transportation Right of Way Map entitled, State Aid Highway No. 2, Bar Harbor, Hancock County, Federal Aid Project No. S-0257(3), dated July 1968, on file in the Office of the Maine Department of Transportation, at its Office in Augusta, File No. 5-100 and being more fully described as follows:

That section of the former location of Route 3 that lies easterly of the following described line and is bounded on the north by the Center of Canon Brook.

Beginning at a point in the present easterly line of Route 3, fifty (50) feet easterly from and as measured along a line normal to the base line at about Station 40+09;

Thence northerly along a curved line fifty (50) feet easterly from and concentric with the base line about four hundred one (401) feet to a point in the westerly line of the former location of Route 3, said point being on a line normal to the base line at about Station 44+21.

Excepting and reserving unto the State of Maine the perpetual right to maintain any and all highway slopes and drainage structures that may be located upon or within the above described section.

Notice of said discontinuance hearing was given to all potential abutters of the way proposed for discontinuance and to the Bar Harbor Planning Office through the Planning Department Director. The abutters to whom notice was given include:

Christopher J. and Rosalie H Brown, 195 Otter Creek Drive, Bar Harbor, ME 04609

Richard P. Rechholtz, 15 High Street, Bar Harbor, ME 04609  
David and Anne Zaslau, 257 Otter Creek Drive, Bar Harbor, ME 04609  
Acadia National Park, P. O. Box 177, Bar Harbor, ME 04609-0177

Based on the testimony presented at the hearing, the Municipal Officers find:

- (4) that the abutter Richard P. Rechholtz has no frontage on public ways other than the part of the way which was proposed to be discontinued, and
- (5) that, as evidenced by an affidavit of Bar Harbor Highway Division foreman Albert Merchant, the way determined to be abandoned has not been used or kept passable for motor vehicles at public expense since 1976, being a period in excess of thirty consecutive years, and has therefore been previously abandoned, and
- (6) that, since the abandonment occurred in 2006, by statute a public easement is reserved.

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**C. Street Light Reduction Project – Public comment and possible Council action on the Police Chief’s recommendation for the elimination of 149 non-essential street lights.** – Following public comments and requests, Mr. Paradis, with second by Ms. Eveland, moved to modify the Street Lights Proposed for Elimination list to reflect those identified by the public as of August 4, 2009 as those that should be retained, mark those lights still on the list for elimination to identify them to the public, and to further address this item at a September meeting. Motion passed 7-0. Those identified as requested to retain lights included, but not limited to: line items #49, #26, #133-136, #64, #65, #16, #94, #71, #141-147, #51, and #82-88.

## **VI. REGULAR BUSINESS:**

**A. Special Town Meeting: November 2009 – Signing of two previously adopted Orders to place Land Use Ordinance amendment articles on the November special town meeting warrant.**

### **Order**

Of the Bar Harbor Town Council  
For the November 3, 2009 Town Meeting

It is hereby ordered that the following article be placed on the special town meeting warrant with voting thereon to be held by Australian ballot.

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### Warrant Article

**LAND USE ORDINANCE AMENDMENT – Stormwater Management** – Shall an Ordinance dated July 7, 2009 and entitled “An amendment to update and modernize the regulations for stormwater management” be enacted?

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### Stormwater Management

**An amendment to update and modernize the regulations for stormwater management.**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## Chapter 125 , LAND USE ORDINANCE

### ARTICLE II Establishment of Districts

#### § 125-67. General review standards.

- L. Stormwater management. All site plans shall demonstrate that the proposed development shall provide for adequate stormwater management in compliance with the following standards:

....

- (6) Catch basins shall be installed where necessary and located at the curbline but at no greater horizontal intervals than three hundred feet.
- (7) Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the ~~Planning Board~~ Public Works Director.
- (8) Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of ~~four hundred foot~~ 250 foot intervals.
- (9) Outlets shall be stabilized against soil erosion by riprap or other suitable materials to reduce stormwater velocity.
- (10) Materials used in storm drainage construction shall comply with the following standards:
  - (a) Reinforced concrete pipe. Reinforced concrete pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek." Perforated concrete pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.
  - ~~(b) Corrugated metal pipe. Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.~~
  - (c) ABS pipe. ABS (Acrylonitrile-butadiene styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.
  - (d) Corrugated plastic pipe. Corrugated plastic pipe shall conform to the requirements of AASHTO M 252.
  - (e) Manholes. Manholes shall be of precast eccentric concrete truncated cone section or eccentric flat top construction meeting the requirements of ASTM Designation C 478 ~~or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type.~~ Bases may be cast-in-place 3,000 psi twenty-eight-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and ~~traps~~ covers shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel. Manholes shall be provided with Polypropylene coated steps. Frames and covers shall be brought to grade with a minimum of two courses and a maximum of five courses of brick.
  - (f) Catch basins. Catch basins shall be of precast concrete eccentric truncated cone section or eccentric flat top construction meeting the requirements of ASTM Designation C 478

~~or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type.~~ Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curbline. Bases may be cast in place 3,000 psi twenty-eight-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and ~~traps~~ grates shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel. Frames and grates shall be brought to grade with a minimum of two courses and a maximum of five courses of brick. Catch basins shall be provided with a two sump.

- (11) Stormwater drainage systems shall be designed so as to prevent the infiltration of stormwater into the public sewer system and shall be maintained as necessary to ensure proper functioning.
- (12) Wherever a stormwater drainage system, including a natural watercourse or drainage-way, is not within a public right-of-way, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system. Such easement shall be at least 30 feet in width. In no event shall the granting of such an easement be deemed to require maintenance or improvement of the stormwater drainage system by the Town.
- (13) All site plans shall demonstrate in the form of signed affidavits from the Public

Works Department that the proposed development shall not place an unreasonable burden on the municipal stormwater drainage system, if such system is to be used, and that the Public Works Department has approved the design specifications of any stormwater drainage system that shall be connected to the municipal system.

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**Explanation:** *This ordinance updates the requirements for stormwater management to current industry standards.*

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### Order

Of the Bar Harbor Town Council

For the November 3, 2009 Town Meeting

It is hereby ordered that the following article be placed on the warrant for the 2009 annual town meeting, with voting thereon to be held by Australian ballot on Nov 3:

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### Warrant Article

**LAND USE ORDINANCE AMENDMENT –Design Review Board Jurisdiction change to Town Hill Business District** – Shall an Ordinance dated August 4, 2009 and entitled “An amendment to the Bar Harbor Code, Chapter 125, Land Use Ordinance Section 125-109, Section 125-111, Section 125-112 and Section 125-114 to change standards for Design Review Board Jurisdiction to Town Hill be enacted?

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Design Review Board Jurisdiction change to Town Hill Business District

**An Amendment to change standards for Design Review Board Jurisdiction change to Town Hill Business District**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## Chapter 125, LAND USE ORDINANCE

The town of Bar Harbor's entire Section 125-109, Section 125-111, Section 125-112 and Section 125-114 of the town code is being amended as follows.

### § Section 125-109 Definitions

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Viewshed – An elevated or unobstructed location, position, or area that permits an unobstructed panoramic vista of particular interest or pleasure or unique view to or from a particular point.

Visual Impact Assessment – an assessment of impacts to the viewshed from and to a proposed development. The assessment should accurately show the proposed project to scale within the visual context of the viewshed. There are 6 components of a visual impact assessment: defining the project setting and viewshed, identifying key views for visual assessment, analyzing existing visual character, a depiction of the visual appearance of project alternatives, an assessment of the visual impacts of project alternatives and a proposal for methods to mitigate adverse visual impacts.

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### § 125-111 Design Review Board.

- C. Jurisdiction. The Review Board's jurisdiction shall be limited to the Design Review Overlay District identified in § 125-112A. The Review Board shall be concerned with those elements of development, redevelopment, rehabilitation and/or preservation that affect the visual quality of the district. subject to view from a public street. In Downtown Business Districts, this review includes views from public streets and parking lots, as well as the view from the waterfront. In the Town Hill Business District, all sides of the building and the overall property development are subject to review. The Board shall not consider the interior floor plan layout arrangements of buildings as part of their review.

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### § 125-112. Applicability of design review.

- A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004]
- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
- (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Business District; the Shoreland General Development I District; the Bar Harbor Historic District; ~~and~~ the Bar Harbor Historic Corridor District (excluding those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D); and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes individual properties with the following uses, regardless of their district location: TA-1, TA-3, TA-4, and TA-6.

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### 125-114 Design review standards.

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- B. Standards relating to visual compatibility. The following standards for visual compatibility shall apply to all activities subject to a certificate of appropriateness within the Design

Review Overlay District. These standards are intended to guide the design, construction, and maintenance of buildings, improvements, signs, and other visual features within the district to assure that they complement the visual character of the district and to serve as a foundation for the review of an application for a certificate of appropriateness. These standards are intended to be general statements of design principles to which activities within the district are required to conform.

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- (5) Building spacing. In the Downtown Business Districts, ~~Where~~ where an established pattern exists with respect to the placement of buildings on the lot vis-a-vis the ~~side~~ lot lines, new or modified buildings shall reflect the established pattern to the extent allowed by the setback provisions of the district in which they are located. In an area where the existing buildings all extend the full width of the lot, constructing a new building so that it is set back from the lot line is not consistent with this guideline unless the setback is required to meet zoning requirements.

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(9) Multiple Buildings on a lot in the Town Hill Business District

In the Town Hill Business District, the layout of buildings on a lot shall reflect the layout of other lots in the district with multiple buildings. The arrangement of the buildings should be visually compatible with the street and with the buildings on the lot.

(10) Viewshed in Town Hill Business District

Building height and placement are subject to further review in the Town Hill Business District to determine any visual impacts to retain the vista along Route 102 from the Crooked Road intersection to the Pine Heath Road intersection.

- C. Standards for materials and design details for structural projects. The following standards are intended to assure that proposals conform to the quality of design that has historically been associated with buildings within the district. ~~These standards apply to projects involving the design, construction, renovation, and/or maintenance of the actual structure of the building. Separate provisions are provided for maintenance, renovations, construction, demolition/relocation, and seasonal closures.~~ The structural standards have been designed to promote compatibility with Bar Harbor's historic character and its scenic location. Certain types of design are inappropriate within the designated Design Review Overlay Districts since they will not meet these standards and thus do not enhance the existing visual character or preserve Bar Harbor's uniqueness.

- (1) Construction standards. With the advent of many new exterior materials, the standards are not intended to prohibit the use of all new materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis. The following standards apply to the construction of new buildings, additions to existing buildings, reconstruction, and major renovations:

(a) Siding material.

[1] Siding is applied as the exposed surface on the outside walls of buildings to provide a barrier against the penetration and infiltration of weather and at the same time enhance the visual and architectural quality of the structure in keeping with other buildings in the district. The selected siding should be visually compatible with other exterior finishes on the building and with those buildings to which it is visually related.

- [2] The siding used on the building should be a material that is in common use within the overlay district. The following are appropriate siding materials:

- [a] Clapboards/shiplap.  
[b] Shingles/shakes.



[c] Stucco/concrete. Stucco with wood trim interruption (English Tudor) is acceptable. Concrete block and poured or precast concrete are acceptable for foundation and fire walls but are generally not appropriate for wall surfaces that can be seen from a public street. Masonry products designed to replicate other appropriate materials are acceptable siding.

[d] Brick.

[e] Stone.

[f] Vinyl/metal siding. Vinyl or metal siding designed to replicate traditional siding material is appropriate but flat or corrugated metal or plastic panels are inappropriate as siding within the district.

~~[g] In Town Hill Business District, barn board, and board and batten.~~

[3] ~~Unfinished plywood or composite flat sheet products such as T-111, barn board, and board and batten are not appropriate siding materials, except for projects subject to design review but are appropriate for areas that cannot be seen from a public street.~~

~~[4] With the advent of many new exterior materials, the standards are not intended to prohibit the use of all new siding materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis.~~

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(c) Windows.

[1] Windows are glassed openings in the exterior walls of buildings to admit light and air, allow for viewing, permit merchandise display, and to enhance the architectural beauty of the structure. The windows in a building shall be visually compatible. Almost any style is appropriate as long as the size is proportional to the building and maintains the architectural continuity of the building.

~~[2] The following window materials are appropriate within the district: wood, vinyl, and lead.~~

~~[32] Other materials~~ are appropriate if they simulate traditional materials or are visually compatible with other components of the building.

(d) Doors and doorways (in the Downtown Business Districts only).

[1] Doors are a means of safe and orderly entrance to and egress from buildings. As the entrance to the building, the front or main door is often the focal point of the principal facade. Therefore, care must be taken in designing the doorway and selecting a door that is visually compatible with the structure.

[2] Doors and doorways shall conform to the following standards:

[a] Major store entrance doors shall be recessed from the property line so as not to interfere with pedestrian traffic when they are opened.

[b] Front doors shall have transoms above to the full height of store windows if this is consistent with the established pattern of other entrance doors.

~~[3] The following are appropriate materials for doors: wood, metal, vinyl and fiberglass.~~

(e) Entrances.

[1] In the Downtown Business Districts, An entrance is much more than a doorway. It is a means of getting from the street to the front door and may include changes in grade, protection from the elements, and/or a degree of landscaping and lighting. The entrance to the building shall be visually compatible with the overall building treatment and should be the focal point of the facade. The entrance shall be designed and placed to have both a visual and functional relationship to the street and sidewalk.

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(g) Roofing.

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~~[2] The following are appropriate materials for roofs that are visible: asphalt and fiberglass shingles or roll roofing, slate, clay or cement tile, copper, gravel built up roof, shakes, and vinyl or rubberized roofing.~~

~~[3] In the Downtown Business Districts, B~~b~~rightly~~ colored metal, plastic or fiberglass roofing is visually incompatible with the character of the district and therefore inappropriate. ~~With the advent of many new roofing materials, the standards are not intended to prohibit the use of all new siding materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis.~~

~~[4] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building and its environs.~~

~~[5] In the Downtown Business Districts, A~~a~~ppropriate~~ roof colors include neutral shades such as earth tones, grays, and black. Bright or primary colors are not appropriate.

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(3) Standards for seasonal closures.

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(e) Signs shall be left in place or removed. The covering or wrapping of signs with tarp or other plastic materials is not appropriate. The use of a canvas cloth covering the sign, and bearing the name of the business is encouraged.

D. Standards for materials and design details for accessory projects. The following standards apply to projects that do not involve the actual structure of the building but significantly impact upon the visual environment and the compatibility of the building with the character of district. Separate standards are provided for awnings, canopies, and umbrellas, outdoor displays, lighting, and landscaping. The accessory standards have been designed to promote compatibility with the district's historic character and its scenic location.

(1) Standards for awnings, canopies, and umbrellas. The objective of the Town is to encourage property owners and businesses to make permanent improvements to the property in the district. Therefore, the use of temporary structures is discouraged. At the same time, the Board recognizes that awnings, canopies, and umbrellas can provide cover, add color, provide shade, and serve as a transition between the storefront and the upper facade in the case of awnings and canopies.

(a) General standards.

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~~[2] In addition, the following standards apply to any awning or canopy:~~

~~[a] Lettering or graphics shall be placed on a valance of no more than 12 inches attached at the awning bar;~~

~~[b] Graphics on an awning or canopy or attached valance are considered signage and must comply with the requirements of this chapter relating to signs.~~

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(3) Landscaping standards. The landscaping standards are intended to maintain and enrich the character and beauty of the Town through the regulation of landscaping which provides aesthetically pleasing scenery, shelter and food for wildlife, natural boundaries and buffers for people, and the control of erosion. The landscaping in conjunction with the construction of a new building or an addition to existing buildings, or major landscaping projects that significantly alter the exterior appearance of a building that is used in whole or in part for nonresidential purposes, is subject to approval by the Design Review Board.

- (a) Materials. Materials and types of vegetation for landscaping are too numerous to list and most are acceptable; however, the material chosen shall be visually compatible with the building.
- (i) The use of invasive species as listed by the University of Maine Cooperative Extension is discouraged
- (b) Design. The design of the landscape should enhance the appearance of the building as well as the grounds. Landscaping shall not block unique architectural features of the building or appear disproportional to the lot and building size.
- (c) Town Hill Business District plantings shall include street tree plantings. Parking areas shall be screened from Route 102. Shrubs and other materials shall enhance the buildings. All other requirements in Section 125-67.H shall be followed.

G. Other standards

(1) Town Hill Business District

- (a) A visual impact assessment shall be submitted to the Board to review the impacts from the development on the viewshed from Route 102 in a southwesterly direction.
- (b) Building placement
  - (i) Multiple buildings on a lot shall be arranged such that the smallest portion of a building, or the smallest building as proposed, shall be along the street.
  - (ii) A principal building on a lot shall be arranged such that the narrowest width of the building faces the street.

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LAND USE

**Appendix 1  
Town of Bar Harbor  
Table 1  
Chapter 125, Land Use**

Site Buffered	Minimum Width of Structure (feet)	Required Landscaping of Structure	Plants per 100 Linear Feet of Buffer			
			Canopy Trees	Understory Trees	Shrubs	Evergreen Trees
One-story building	60		10	15	60	10
All other buildings	60		15	15	30	30
Parking areas		<del>Berm</del> For each 24 parking spaces there shall be required two understory trees and six shrubs				
Site requiring screening		Fencing or <del>berm</del> other landscaping to be determined by Planning or Design Review Board				

**NOTES:**

~~\* For each 24 parking spaces there shall be required, adjacent to the parking spaces, three canopy trees, two understory trees and six shrubs.~~

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**EXPLANATION:** *This amendment updates the existing review standards and expands the Design Review Board Jurisdiction to include the Town Hill Business District.*

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- B. Maine Municipal Association** – *Review and possible action on the election of Vice President and Executive Committee.* – Mr. Paradis, with second by Ms. Eveland, moved to sign the Maine Municipal Association Voting Ballot and vote for the candidates proposed by the MMA Nominating Committee. Motion passed 7-0.
- C. Parks & Recreation Committee** – *Application of Kim Harty to fill the vacant seat with an expiring term of June 30, 2010.* – Mr. Paradis nominated Kim Harty to fill the vacant seat on the Parks and Recreation Committee with an expiring term of June 30, 2010. There being no further nominations, it was duly voted and Ms. Harty was unanimously appointed.
- D. Design Review Board** – *Application of Francis “Pancho” Cole to fill the vacant seat with an expiring term of June 30, 2012.* – Ms. Disney nominated Francis “Pancho” Cole to fill the vacant seat on Design Review Board with an expiring term of June 30, 2012. There being no further nominations, it was duly voted and Mr. Cole was unanimously appointed.
- E. Committee Consultations** – *Discussion of current projects, future plans and any support needed from Town Council*
- 1. Housing Authority** – Director Terry Kelley reported the Northeast Creek Housing project has been impacted by the down turn of the economy and they will use a portion of the bond fund. He encouraged people to attend the ECO field day at Northeast Creek on August 19 between 2:00 and 7:30 p.m. to see solar demonstration, installation, and an accountant will be on hand to assist in explaining the new tax credits for first time home buyers. He further reported of several programs offering rental assistance in the Bar Harbor and Ellsworth area.
  - 2. Design Review Board** – Design Review Board Vice-Chair Roc Caivano reported that there was nothing new to report, except, to note that since the boards jurisdiction expanded to include Routes 3 and 102 they received a number of sign applications and will be meetings twice a month for awhile to accommodate the public.
- F. Taxi & Bus Permit Renewals: Panama Geddy Tours LLC/GLM LLC** - *Request of Gerald Mitchell for permits for three taxis and one bus. Approved by Police Chief and proof of insurance provided.* – Mr. Paradis, with second by Ms. Eveland, moved to approve the taxi and bus permit renewals for Panama Geddy Tours LLC/GLM LLC as requested for three taxis and one bus. Motion passed 7-0.

- G. Holland Avenue** – *Request of Steve Perrin for discussion of several concerns regarding the safety of Holland Avenue for both pedestrians and vehicle occupants.* – Mr. Paradis disclosed that he owns a business on Holland Avenue and it could potentially mean he has a personal interest in this matter. Ms. Eveland, with second by Mr. Jordan, moved to find that Mr. Paradis does not have a conflict of interest in this matter. Motion passed 6-0-1 (Recused: Mr. Paradis).

Following Mr. Perrin's observations and suggestions, Ms. Eveland, with second by Mr. Veilleux, moved to task the Parking and Traffic Committee to look at Holland Avenue and recommend any improvements. Motion passed 7-0.

- H. Legislation: LD1790** – *Request of Councilor Disney for Council endorsement of a draft letter showing support for LD1790.* – Ms. Disney, with second by Ms. Eveland, moved to endorse the memorandum as presented and forward it to MDOT and our legislative delegation. Motion passed 7-0.

- I. Woodbury Road** – *Request of Elizabeth Moore Mills that North Woodbury Road (between Highbrook Road and West Street Extension) be discontinued and/or that planned paving be stopped.* – Mr. Paradis, with second by Mr. Veilleux, moved to reconsider the action to take no action on item VI (I) of the June 16, 2009 Council action for paving of North Woodbury road. Motion passed 7-0.

Following comments from neighborhood residents Elizabeth Moore Mills and Hoyt Hamor, and Council; Mr. Jordan, with second by Ms. Eveland, moved the question. Motion passed 4-3 (Nay: Mr. Paradis, Mr. McFarland, Mr. Veilleux).

By unanimous vote, Council did not alter their action of June 16, 2009 item VI (I).

- J. Salisbury Cove Storm Water Issues** – *Report of the Public Works Director on drainage issues east of Norway Drive and north of Route 3.* - Following comments from the public, staff, and Council; Ms. Disney moved to engineer and build a storm water drainage system for Salisbury Cove. Motion died for lack of second.

Mr. St. Germain, with second by Mr. Jordan, moved to authorize the Town Manager to obtain granted easements if needed, and to install a culvert between Little Hamilton Pond and Hamilton Pond proper on the south side of Route 3 in an easterly fashion with the culvert as short as needed.

Following much discussion, Ms. Eveland, with second by Mr. Jordan, moved the question. Motion passed 6-1 (Nay: Mr. Paradis).

The main motion passed 7-0.

- K. Harbor Ordinance Amendment** – *Request of the Harbor Committee for an amendment to clarify meeting requirements and appeal procedures.* – Mr. Paradis, with second by Ms. Eveland, moved to change the first sen-

tence of Chapter 31, Article IV, section 31-19 of the Town Code to read “The Committee shall meet a minimum of four times a year, one of which shall be for organizational purposes.” Motion passed 7-0. Further, Mr. Paradis, with second by Ms. Eveland, moved to amend the language of Chapter 153, section 153-29 of the Town Code to read “Any person adversely affected by a decision of the Harbormaster may appeal the decision to the Harbor Committee. Persons filing appeals must make written application to the Town Clerk within 30 days of a written decision of the Harbormaster and pay such fee as determined and set by the Town Council from time to time.” Motion passed 7-0.

**At 9:50 p.m., the Chair announced a ten minute break. Meeting reconvened at 10:00 p.m.**

**L. Cruise Ship Study Task Force – Reports on a variety of subjects:**

- 1. Information Kiosk** – *Recommendation to relocate the information area located in the two western parking spaces in front of Harbor Place to Harborview Park with the addition of an information kiosk at this new location.* – Following discussion, Mr. Paradis, with second by Mr. Veilleux, moved to endorse the idea of relocating the information area located in the two western parking spaces in front of Harbor Place to Harborview Park with the addition the information kiosk at this new location as presented. Further, to direct staff to continue seeking approval from Land & Water Conservation Fund at the Maine Department of Conservation, seek approval from the Design Review Board if needed, and to refer this item to the Parks & Recreation Committee for their approval. Motion passed 7-0.
- 2. Cruise Ship Passenger Landing** – *Request for Town Council clarification on whether cruise tender operations resume at Town facilities, under what circumstances, and that the fee structure for tender landing be updated prior to commencing tender operations to Town facilities.*
  - a.** *Recommendation of the Harbor Committee to resume cruise ship passenger landings at the Town floats, but with a competitive fee structure.*

Ms. Eveland, with second by Mr. St. Germain, moved that Mr. McFarland has a conflict of interest in this matter due to his employment as a tour guide with a cruise tour operator. Motion failed 3-3-1 (Recused: Mr. McFarland).

Ms. Disney, with second by Ms. Eveland, moved to resume cruise ship tender landings from town floats on a regular basis. Motion failed 3-4 (Nay: Mr. McFarland, Mr. Paradis, Mr. Veilleux, Mr. St. Germain).

Following much discussion and public comments, Mr. Paradis, with second by Mr. Veilleux, moved to table this item until we know the results of the pending AARA Port Security Grant. Motion passed 7-0.

- 3. Public Opinion Survey** – *Recommendation that the Town work with the Chamber of Commerce to develop a survey at the end of the 2009 cruise season to gather public opinion on cruise operations in Bar Harbor.* – Mr. Paradis, with second by Ms. Eveland, moved to task the Cruise Ship Study Task Force with working with the Chamber of Commerce to develop a survey and methodology to gather public opinion on cruise operations in Bar Harbor at the end of the 2009 cruise season and report back to Council with a final proposal for possible implementation. Motion passed 6-1 (Nay: Ms. Disney).

- 4. Progress Report** – *Presentation by Task Force chair Paul Paradis.* – Mr. Paradis gave a brief report.

- M. YMCA** – *Report of the Parks & Recreation Committee on the fee for services agreement requested by Council.* – Ms. Eveland, with second by Mr. Veilleux, moved that Mr. McFarland has a conflict of interest in this matter due to his being a member of the YMCA board of directors. Motion passed 6-0-1 (Recused: Mr. McFarland).

Following the Parks & Recreation Committee report by Mr. Dobbs, discussion ensued and Mr. Paradis, with second by Mr. Veilleux, moved to direct staff to work with the YMCA to enter into a Memorandum of Understanding to include a fee for service arrangement and provide for regular reporting. Motion passed 6-0-1 (Recused: Mr. McFarland).

- N. Public Works Consolidated Capital Work Program** – *Report of the Public Works Director on the anticipated work schedule for FY10 capital improvements.* – Following the report and comments, the scope of the projects would move forward as presented. There was no action taken.

- O. Port Security Grant: FY09** – *Request of the Town Manager for acceptance of a \$473,106 grant for construction of a new Harbor Security Office, renovation of the Dispatch Office and purchase of security equipment.* – Mr. Paradis, with second by Ms. Eveland, moved to accept a \$473,106 grant for construction of a new Harbor Security Office, renovation of the Dispatch Office and purchase of security equipment. Motion passed 7-0.

- P. Justice Assistance Grant** – *Request of the Manager for acceptance of an \$18,846 grant for the purchase of a digital in-car video recording system.* – Mr. Paradis, with second by Mr. Veilleux, moved to accept an \$18,846 grant for the purchase of a digital in-car video recording system. Motion passed 7-0.

- Q. Water & Sewer Committees** – *Request of Councilor Jordan for discussion of forming committees to oversee water and sewer operations, rates and/or budgets.* – Item deleted from the agenda.

- R. Boards and Committees** – *Review and possible approval of modifications to the board and committee application form as requested by Council.* – Mr. Paradis, with second by Ms. Disney, moved to approve the modifications to the board and committee application form as amended by Mr. St. Germain. Motion passed 7-0.
- S. 2010 Council Goal Setting** – *Discussion of details for the annual goal setting and possible adoption of the agenda.* – Due to the hour, this item was not addressed.
- T. Comprehensive Plan Amendment: Town Hill** – *Discussion of possible dates for a joint meeting of Council and the Planning Board.* – Mr. Paradis, with second by Mr. Veilleux, moved to schedule a joint meeting with the Planning Board to discuss the Comprehensive Plan amendment: Town Hill at 6:00 p.m. on September 23, 2009. Motion passed 7-0.
- U. TABOR II Referendum** – *Request of the Town Manager for discussion of the impact of passage on citizen services.* – Due to the hour, this item was not addressed.
- V. Excise Tax Referendum** – *Request of the Town Manager for discussion of the impact of passage on citizen services.* – Due to the hour, this item was not addressed.
- W. Hadley Point Encroachment** – *Report of the Town Manager on the status of the permitting required to relocate Cabin #2.* – Town Manager Dana Reed reported that the agreement was 99% completed and would be sent to the Registry of Deeds tomorrow.
- X. Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Ms. Eveland, moved to sign the Treasurer's Warrant for paid bills. Motion passed 7-0.

**VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

**Mr. Jordan** requested tonight's deleted item VI. Q for next agenda.

**Ms. Disney** requested a progress update from Chip Reeves regarding the culvert installation on Norway Drive.

**Ms. Eveland** acknowledged the printed bicycle safety cards at tonight's meeting, and thanked those responsible for the quick action.

**VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:** (None Scheduled)

- IX. ADJOURNMENT** – Mr. Paradis, with second by Mr. Veilleux, moved to adjourn at 12:13 a.m. August 5<sup>th</sup>. Motion passed 7-0.

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Paul Paradis, Secretary